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5 **Attorneys for Secured Creditor,**
6 **OneWest Bank, FSB**

7 **UNITED STATES BANKRUPTCY COURT**
8 **DISTRICT OF NEVADA**

9
10 In re) Bankruptcy Case No. 09-24694-lbr
11 Carla Moctezuma,) Chapter 13
12) **OPPOSITION TO DEBTOR'S MOTION TO**
13) **VALUE COLLATERAL AND OBJECTION**
14) **TO THE CONFIRMATION OF CHAPTER 13**
15) **PLAN**
16) CONFIRMATION HEARING:
17) DATE: December 10, 2009
18) TIME: 1:30 p.m.
19) Motion To Value HEARING:
20) DATE: November 12, 2009
21) TIME: 2:30 p.m.

Debtor.

22 **TO THE HONORABLE LINDA B. RIEGLE, UNITED STATES BANKRUPTCY COURT**
23 **JUDGE, THE CHAPTER 13 TRUSTEE, THE DEBTOR, AND THE DEBTOR'S COUNSEL:**

24 OneWest Bank, FSB ("ONEWEST"), is the holder of a secured claim recorded
25 against property in which the Debtor claims an interest. ONEWEST is, therefore, a party in interest
26 and has standing to object to the Debtor's Chapter 13 Plan.

27 ONEWEST's Deed of Trust is secured only by a security interest in Debtor's
28 residence, real property commonly referred to as 6596 Rose Tree Lane, Las Vegas, Nevada 89115,
(the "Property"). The total amount that is due and owing under the Promissory Note is \$288,821.18.
The total pre-petition arrears owed are \$8,785.58. The Debtor's Plan fails to provide for the pre-
petition arrearages owed to ONEWEST. The Debtor's Plan also fails to provide that the regular

1 monthly mortgage payments are to be tendered directly to ONEWEST by the Debtor outside the
2 Plan.

3 On October 04, 2009, the Debtor filed a Motion to Avoid Lien of ONEWEST. The
4 Debtor's Motion seeks to value the Property at \$100,000.00. ONEWEST believes that the value of
5 the Property is greater than \$100,000.00 and is currently in the process of obtaining a valuation of
6 the Property.

7 In the event that the property is valued at \$100,000.00, the Debtor's plan may not be
8 confirmed because it does not satisfy §1325(a)(5). If the Debtor seeks to modify the claim, the Plan
9 must propose to pay the claim in full or ONEWEST is entitled to retain its lien for the full amount
10 owed. Furthermore, ONEWEST asserts that the full amount of its claim shall remain secured by the
11 lien until the Debtors complete the Plan and receive a discharge in this Chapter 13 case.

12 Based on the foregoing, ONEWEST requests the Court grant additional time to allow
13 ONEWEST to obtain a valuation of the Property. If the Court determines that ONEWEST's claim
14 shall be valued at 100,000.00, OneWest requests the Court deny confirmation because Debtor's Plan
15 payment is not sufficient to pay One West's claim in full.

16 DATED: October 28, 2009

Respectfully Submitted,

MALCOLM CISNEROS, A Law Corporation

19 /s/ Kevin Hahn
20 KEVIN HAHN
21 Attorney for Secured Creditor,
22 OneWest Bank, FSB
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PROOF OF SERVICE

STATE OF CALIFORNIA }
COUNTY OF ORANGE } ss.

I am employed in the County of Orange, State of California. I am over the age of eighteen and not a party to the within action; my business address is: 2112 Business Center Drive, Second Floor, Irvine, California, 92612.

On October 28, 2009, I served the following document described as **OPPOSITION TO DEBTOR'S MOTION TO VALUE COLLATERAL AND OBJECTION TO THE CONFIRMATION OF CHAPTER 13 PLAN** on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Irvine, California (**and via telecopy or overnight mail where indicated**), addressed as follows:

Carla Moctezuma
3990 East Carey Avenue #24
Las Vegas, NV 89115

The following recipients will receive a copy of this pleading via Electronic Mail:

Jorge L. Sanchez
930 S. Fourth St. #211
Las Vegas, NV 89101

Rick A. Yarnall
701 Bridger Ave., #820
Las Vegas, NV 89101

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 28, 2009, at Irvine, California.

/s/Adam Mischlich
Adam Mischlich